



## SENATE BILL 744: Appropriations Act of 2014

2013-2014 General Assembly

<b>Committee:</b>	House Finance	<b>Date:</b>	June 10, 2014
<b>Introduced by:</b>	Sens. Brown, Harrington, Hunt	<b>Prepared by:</b>	Cindy Avrette
<b>Analysis of:</b>	PCS to Third Edition		Committee Counsel
	S744-CSLBxf-126		

**SUMMARY:** *The proposed House Finance Committee Substitute for Senate Bill 744 contains the provisions in The Current Operations and Capital Improvements Appropriations Act of 2014 related to fees, taxes, and indebtedness. The fee provisions are highlighted in the attached chart. The remaining finance related items may be found in the following sections:*

- *Section 12H.18 authorizes the Secretary of Health and Human Services to implement a Medicaid assessment on 1915(c) North Carolina Innovations Waiver services if (i) a federal law amendment or Medicaid waiver allows the imposition of this assessment and (ii) the service providers agree to the assessment. The authorization expires July 1, 2017. {SB 744, 3rd edition engrossed, imposed an assessment on local management entities/managed care organizations (LME/MCOs); the provision as written in SB 744, 3rd edition engrossed, cannot be implemented.}*
- *Section 15.2B increases the percentage rate to be used in calculating the public utility regulatory from 0.13% to 0.14% for each public utility's NC jurisdictional revenues earned during fiscal year 2014-15. {This provision is new to SB 744.}*
- *Section 20.2 increases the percentage rate to be used in calculating the insurance regulatory charge from 6% to 6.5% for the 2015 calendar year and adds to the purposes for which the money may be used to include reimbursing the General Fund for money appropriated to the Industrial Commission for support of the Commission's expenses related to hearings and processing agreements related to disability compensation. Under current law, the Industrial Commission is allowed to impose a fee on employers for these purposes. Section 15.16B of the PCS removes the Industrial Commission's authority to charge a fee for these services, and replaces it with a higher rate for the insurance regulatory charge. {This provision is new to SB 744.}*
- *Section 34.6 repeals the quarterly refund of the motor fuel excise tax paid by taxicabs and delays the expansion of the highway use tax base to include dealer administrative fees from July 1, 2014, to October 1, 2014. {These two provisions are the same as in SB 744, 3rd edition engrossed. This PCS does not include an increase in the highway use tax caps applicable to commercial and out-of-state vehicle registrations, as is in SB 744, 3rd edition, engrossed.}*
- *Section 36.12 authorizes the issuance of \$263,725,000 of general obligation bonds, this amount representing the amount by which the State's outstanding indebtedness was reduced during the fiscal biennium ended June 30, 2013, by two-thirds:*



- *\$15.4 million may be used to finance the capital facility costs of a Western Crime Lab in Asheville, NC. {This provision is the same as in SB 744, 3rd edition engrossed.}*
- *\$42.325 million may be used to finance the capital facility costs of renovating the Albemarle Building {new provision}*
- *\$206 million may be used to finance the capital costs of other projects that have been authorized but for which bonds have not been issued. {SB 744, 3rd edition engrossed, used all of the remaining \$242,925 million for this purpose.}*
- *Section 37.1 clarifies what is meant by the term "net General Fund tax collected" for purposes of the corporate income tax rate trigger. {This provision is the same as in SB 744, 3rd edition engrossed.}*
- *Section 37.2 phases out over four years the Medicaid hold harmless provision that guaranteed counties an additional \$500,000 benefit. {This provision is the same as in SB 744, 3rd edition engrossed.}*
- *Section 37.3 exempts 50% of the sales price of a manufactured or modular home from sales tax, effective July 1, 2014. {This provision is new to SB 744; it was part of House Bill 1050, as it passed the House.}*
- *Section 37.4 phases-in the 7% sales tax rate on gross receipts derived from sales of piped natural gas by one of the eight gas cities over two years, effective July 1, 2014. {This provision is new to SB 744; see Rep. Moore's House Bill 1231.}*

## **CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE:**

### **Assessment for LME/MCOs**

Section 12H.18 would direct the Secretary of Health and Human Services to implement a Medicaid assessment program for local management entities/managed care organizations (LMEs/MCOs), if federal law or regulation is amended to allow the imposition. A Medicaid-related provider assessment collects revenue from specific categories of providers to generate new state funds, these funds can be used to reduce state general fund appropriations or matched with federal funds to increase provider payments. The budget submitted by the Governor implemented a 3.5% assessment on the LMEs/MCOs and the Senate included this provision in its version of the budget, Senate Bill 744, 4<sup>th</sup> Edition. On May 28<sup>th</sup>, the federal Department of Health and Human Services' Office of Inspector General issued a report on Pennsylvania's assessment on Medicaid Managed Care Organizations, finding that the assessment is not allowable for Medicaid funding purposes. The provision would have saved the State approximately \$60 million.

### **Set Regulatory Fee for Utilities Commission**

S.L. 2013-360 set the rate for the public utility regulatory fee for both years of the biennium at 0.13%. Section 15.2B of this bill changes the percentage rate set in last year's budget for fiscal year 2014-2015 from 0.13% to 0.14%. The bill does not change the annual public utility regulatory fee imposed on electric membership corporations whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale; that rate remains at \$200,000. The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to reimburse the General Fund for appropriations made to the Utilities Commission to pay the expenses incurred in regulating public utilities.

The rate for this fee must be set each year by the General Assembly. Last year's budget increased the rate for fiscal year 2013-14 from 0.12% to 0.13%. Prior to this change, the rate was last changed in

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fiscal year 2004-05. The utility regulatory fee is a tax that was first imposed in 1989. The regulatory fee is imposed on all utilities that are subject to regulation by the North Carolina Utilities Commission. The fee is a percentage of the utility's North Carolina jurisdictional revenues. In general, jurisdictional revenue is derived from providing utility service in North Carolina. Prior to 2013, the

The rate of the fee imposed on electric membership corporations has not changed since the General Assembly enacted it in 1999. The 1999 General Assembly enacted S.L. 1999-180, which authorized electric membership corporations to form subsidiary corporations that may provide energy services and products, telecommunications services and products, and water and wastewater collection and treatment. The subsidiary must fully compensate the electric membership corporation for its use of the corporation's personnel, services, equipment, and property. The Utilities Commission is charged with regulating this aspect of the subsidiary's business and, to pay for this regulation, S.L. 1999-180 levied a flat-rate regulatory fee to be paid annually by the North Carolina Electric Membership Corporation.<sup>1</sup> Thus, the fee imposed on the North Carolina Electric Membership Cooperation will be passed on to its member electric membership corporations.

## **Insurance Regulatory Charge**

S.L. 2013-360 set the rate for the public utility regulatory fee for both years of the biennium at 6%, the same as the rate set in 2010, 2011, and 2012. The proceeds of the fee are credited to the Insurance Regulatory Fund and used to reimburse the General Fund for appropriations made to the Department of Insurance and other agencies to pay the expenses incurred in regulating the insurance industry. The insurance regulatory charge was first enacted in 1991 to defray the State's cost of regulating the insurance industry. The charge is a percentage of each insurance company's gross premiums tax liability.<sup>2</sup>

Subsection (a) of section 20.2 increases the percentage rate from 6% to 6.5% for the 2015 calendar year. Subsection (b) amends the purposes for which the money in the Fund may be used, effective January 1, 2015, to include reimbursement of the General Fund for money appropriated to the North Carolina Industrial Commission for hearings before a Deputy Commissioner, hearings before the full Commission, and processing of an agreement for compensation of disability, an employer's admission of employee's right to permanent partial disability, or a supplemental agreement as to payment of compensation. Under current law, the Commission may impose fees on employers to recover these costs. Section 15.16B of this bill removes the Commission's authority to impose fees for these purposes, effective July 1, 2015.

## **Highway Use Tax and Motor Fuel Tax Changes**

Section 34.6 delays the expansion of the highway use tax base to include dealer administrative fees from July 1, 2014, to October 1, 2014. This change in the base was enacted in last year's budget bill with an effective date of January 1, 2014. This date was changed to July 1, 2014, in S.L. 2013-363. This section also repeals the quarterly refund for the motor fuel excise tax paid for taxicabs, effective January 1, 2015.

## **Corporate Tax Rate Trigger**

Section 37.1 clarifies what the term "net General Fund tax collected for a fiscal year" means for purposes of the corporate income tax rate trigger in G.S. 105-130.3C. Last session, the General Assembly reduced the corporate income tax rate from 6.9% to 6% for the 2014 taxable year and to 5%

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<sup>1</sup> The North Carolina Electric Membership Corporation is the only electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as provided in G.S. 117-16. It is a "generation and supply cooperative" owned by its members. Its members are all but one of the existing North Carolina electric membership corporations, which are "distribution cooperatives."

<sup>2</sup> Medical service corporations and health maintenance organizations began paying the charge in 2000.

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for the 2015 taxable year. In addition to these rate reductions, the law provides for a potential 1% rate reduction for taxable year 2016 if net General Fund tax collections for fiscal year 2014-15 meet the statutory target amount of \$20,200,000,000 and a potential 1% rate reduction for taxable year 2017 if net General Fund tax collections for fiscal year 2015-16 meet the statutory target amount of \$20,975,000,000.

To see whether or not the targeted collection amount has been met, the current law uses the amount reported by the State Controller in the State's Comprehensive Annual Financial Report. This report contains several different reports, and none of the reports necessarily reflect the collections used by the General Assembly and the Appropriations Committees when Fiscal Research Division prepares the budget availability statement for a fiscal year. The number most commonly used by the legislature when it begins budget discussions is the amount reported by the Department of Revenue. This section clarifies that net General Fund tax collected for a fiscal year means the amount of net revenue reported by the Department of Revenue's June Statement of Collection as "Total General Fund Revenue" for the 12-month period that ended the previous June 30, modified as follows:

- Less any large one-time, nonrecurring revenue
- Adjusted by any changes in net collections resulting from suspension or termination of transfers out of the General Fund.

## **Modify County Hold Harmless for Repealed Local Taxes**

In 2008, the State assumed the counties' share of the nonfederal share of Medicaid costs. To provide the financial resources to assume these costs, S.L. 2007-323 phased out the third one-half cent local sales tax and made a corresponding increase in the State sales tax rate. In addition, the legislation provided for a State hold harmless so that every county would benefit from these changes by at least \$500,000 annually.

This section phases out the provision that each county will benefit by \$500,000 annually over a four-year period as follows:

- Effective July 1, 2014, the amount is reduced to \$325,000
- Effective July 1, 2015, the amount is reduced to \$250,000
- Effective July 1, 2016, the amount is reduced to \$125,000
- Effective July 1, 2017, each county will be held harmless from the exchange of a portion of the local sales and use taxes for the State's agreement to assume responsibility for the administrative costs of Medicaid, but there will not be any supplemental amount provided. Based on projections, 24 counties will continue to receive a hold harmless payment beginning in fiscal year 2017-18.

## **Modular/Manufactured Home Sales Tax**

This section is new to the House PCS for Senate Bill 744.

S.L. 2013-316 increased the State sales tax rate on manufactured and modular homes from 2% with a \$300 cap and 2.5% respectively, to 4.5%, effective January 1, 2014. In response to industry concerns, the Revenue Laws Study Committee expressed a desire that manufactured and modular homes be taxed as similarly as possible to a stick built home. The industry states that the average material cost in a factory-built home is approximately 50% of the invoice price. The Revenue Laws Study Committee recommended that the tax be imposed on ½ of the price of the home by exempting 50% of the sales price from sales tax. House Bill 1050, as passed by the House on May 21, 2014, included this provision. The Senate removed this provision from the bill. The bill has been enacted as S.L. 2014-3. This section

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makes the same sales tax change for manufactured and modular homes as passed by the House in House Bill 1050; it becomes effective July 1, 2014.

## **Phase in Sales Tax Rate on Piped Natural Gas for Gas Cities and Customers of Gas Cities**

This section is new to the House PCS for Senate Bill 744.

Effective July 1, 2014, the combined general rate of sales tax (7%) applies to the gross receipts derived from the sale of piped natural gas.<sup>3</sup> Currently, piped natural gas is subject to a per therm excise tax. S.L. 2013-316 replaced the excise tax on piped natural gas, effective July 1, 2014, with a sales tax equally applicable to all consumers of piped natural gas. Subsection (a) of this section would phase-in the sales tax rate on sales of piped natural gas by gas cities over a two-year period. The sales tax rate would be 3.5%, effective July 1, 2014; and 7%, effective July 1, 2015.

Prior to 1999, the sale of piped natural gas was subject to sales and use tax, but sales by gas cities were exempt. In 1999, the sales and use tax on piped natural gas was replaced with a new excise tax. The new excise tax system preserved the tax exemption for gas received by a gas city for consumption by that city and for or gas delivered by a gas city to a sales or transportation customer of the gas city. A "gas city" is a city in this State that operated a piped natural gas distribution system as of July 1, 1998. There are only eight gas cities: Bessemer City, Greenville, Kings Mountain, Lexington, Monroe, Rocky Mount, Shelby, and Wilson.

Cities receive a share of the sales tax imposed on piped natural gas. Under the former excise tax system, the amount was one-half of the amount of tax attributable to that city based on gas delivered to sales or transportation customers in the city and gas received in each city by persons who have direct access to an interstate pipeline and who receive the gas for their own consumption. Beginning July 1, 2014, there is a different formula for distributing the proceeds to the cities. Moreover, the formula for gas cities differs from other cities. Subsections (b), (c), and (d) of this section clarify how the distribution is calculated for gas cities and provide that gas cities do not receive a distribution of the sales tax revenue derived from the reduced rate.

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<sup>3</sup> Section 4.1 of S.L. 2013-316.